

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

CORY SLONE,

Plaintiff,

CASE No. 1:20-CV-144

v.

HON. ROBERT J. JONKER

UNKOWN FAIR, UNKOWN CANTU,

Respondent.

**ORDER APPROVING AND ADOPTING**  
**REPORT AND RECOMMENDATION**

Plaintiff Cory Slone is currently a prisoner in the custody of the Michigan Department of Corrections. He is suing Corrections Officers Fair, Cantu, and Freeman under 42 U.S.C. § 1983 on First Amendment retaliation and Eighth Amendment excessive force theories. He also asserts various state law tort claims. Defendants move for summary judgment. The Magistrate Judge issued a Report and Recommendation that the Court grant in part and deny in part the motion for summary judgment (ECF No. 22).

The Court has reviewed Magistrate Judge Kent's Report and Recommendation (ECF No. 28) and Plaintiff's Objection to the Report and Recommendation (ECF No. 29). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, "[t]he district judge . . . has a duty to reject the magistrate judge's recommendation unless, on de novo reconsideration, he or she finds it justified." 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 381 (2d ed. 1997). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981).

The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; and Plaintiff's objections. The Court finds the Magistrate Judge's Report and Recommendation factually sound and legally correct. Specifically, the Magistrate Judge recommends that the Court grant Defendants' motion for summary judgment on the First Amendment retaliation and conspiracy claims, but deny summary judgment on Plaintiff's remaining excessive force claim against defendant Fair. Magistrate Judge Kent further recommends the Court decline to exercise supplemental jurisdiction over state law claims. The Magistrate Judge carefully and thoroughly considered the evidentiary record, the parties' arguments, and the governing law. In his objections, Plaintiff primarily reiterates and expands arguments he has already presented. Nothing in Plaintiff's objections change the fundamental analysis. For the very reasons the Report and Recommendation details, this Court agrees with the recommendations.

**ACCORDINGLY, IT IS ORDERED** that the Report and Recommendation of the Magistrate Judge (ECF No. 28) is **APPROVED AND ADOPTED** as the Opinion of the Court.

**IT IS FURTHER ORDERED** that Defendants' Motion for Summary Judgment (ECF No. 22) is **GRANTED in part** and **DENIED in part**. The First Amendment retaliation and conspiracy theories are **DISMISSED**, but Plaintiff's excessive force claim against defendant Fair will proceed

to trial.

**IT IS FURTHER ORDERED** that the state tort claims are **DISMISSED** under to 28 U.S.C. § 1367(c) because the Court declines to exercise supplemental consideration over them.

Dated: August 3, 2022

/s/ Robert J. Jonker  
ROBERT J. JONKER  
UNITED STATES DISTRICT JUDGE